

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

MUR: 6566

DATE COMPLAINT FILED: May 1, 2012

DATE OF NOTIFICATION: May 3, 2012

DATE OF LAST RESPONSE: July 10, 2012

DATE ACTIVATED: October 9, 2012

ELECTION CYCLE: 2012

EXPIRATION OF SOL: October 1, 2016
to March 31, 2017

MUR: 6604

DATE COMPLAINT FILED: July 2, 2012

DATE OF NOTIFICATION: July 10, 2012

DATE OF LAST RESPONSE: October 1, 2012

DATE ACTIVATED: October 9, 2012

ELECTION CYCLE: 2012

EXPIRATION OF SOL: October 1, 2016
to August 14, 2017

COMPLAINANTS:

Mike Clark and Mike Clark for Congress (MUR 6566)
Kenneth James Krayeske (MUR 6604)

RESPONDENTS:

Lisa Wilson-Foley for Congress and William M. Kolo
in his official capacity as treasurer (MURs 6566
and 6604)
Apple Health Care, Inc. (MUR 6566)
John Rowland (MURs 6566 and 6604)
CBS Radio Stations Inc. (WTIC) (MUR 6604)

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 431(8)
2 U.S.C. § 431(9)
2 U.S.C. § 434(b)
2 U.S.C. § 441b(a)
11 C.F.R. § 100.52(d)
11 C.F.R. § 100.54
11 C.F.R. § 100.73
11 C.F.R. § 100.74
11 C.F.R. § 100.94

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11 C.F.R. § 100.132

11 C.F.R. § 104.3

11 C.F.R. § 109.21

11 C.F.R. § 114.9(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

OTHER AGENCIES CHECKED:

I. BACKGROUND

The Complaints allege that Lisa Wilson-Foley for Congress (the "Committee") received in-kind contributions from Wilson-Foley's family business in violation of the Federal Election Campaign Act of 1971, as amended (the "Act").¹ Specifically, the Complaints allege that Apple Health Care, Inc. ("Apple Health") — whose president, Brian Foley, is Wilson-Foley's spouse — paid John Rowland, a former governor of Connecticut, as a "consultant" while he provided campaign work for the Committee, suggesting that those payments were in fact payments for services Rowland provided the campaign.²

Counsel for Respondents Apple Health and the Committee argue that the Complaints fail to state a claim as to that allegation because (i) they are factually insufficient in that they rely on hearsay and third-party media sources;³ (ii) they do not specifically state that Apple Health paid Rowland for work he provided the Committee or

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012. Wilson-Foley lost the August 14, 2012, primary election.

² Compl. ¶¶ 2-3, Ex. 1, MUR 6604 (July 2, 2012); Compl. ¶ 6, MUR 6566 (May 1, 2012). In alleging that the Committee and other Respondents may have violated the Act, the Complaint in MUR 6604 attaches and relies upon a copy of the Complaint filed in MUR 6566.

³ Committee Resp. at 2, MUR 6566 (July 10, 2012); Committee Resp. at 3, MUR 6604 (Aug. 29, 2012); Apple Health Resp. at 1 (June 22, 2012).

1 that Rowland used Apple Health resources to benefit the Committee;⁴ and (iii) the
2 relevant law expressly provides that an individual does not make a contribution to a
3 committee of services provided voluntarily and without compensation, even if employed
4 by another entity at the time.⁵

5 In addition, the Complaint in MUR 6604 alleges that CBS Radio Stations Inc.
6 (WTIC) ("CBS Radio") and Rowland as its agent made an in-kind corporate contribution
7 to the Committee when Rowland used time during a politically-themed radio talk show
8 he hosted to attack one of Wilson-Foley's opponents in the 2012 convention and primary
9 elections.⁶ That Complaint further alleges that the Committee thus accepted an
10 impermissible corporate contribution and failed to disclose it.⁷ Respondents CBS Radio
11 and the Committee argue that the allegations concerning that contribution are also made
12 without personal knowledge and lack factual support, and regardless should be rejected
13 under the statutory exemption for press entities to the prohibition against corporate
14 contributions.⁸ Rowland responded to the allegations concerning the radio show,
15 asserting that the claims are factually inaccurate and that the appearance on the program
16 of Wilson-Foley's opponent, who held state office, did not occur at Rowland's request

⁴ Committee Resp. at 4, MUR 6566.

⁵ *Id.* at 3; Apple Health Resp. at 2-3.

⁶ Each congressional district in Connecticut holds a party nominating convention that the Commission has recognized as an election separate from the primary and general elections. *See* Advisory Op. 1976-58 (Peterson); Advisory Op. 2004-20 (Farrell). The convention and primary elections at issue here occurred on May 14, 2012, and August 14, 2012, respectively.

⁷ Compl. at 2-3, MUR 6604.

⁸ Committee Resp. at 3-8, MUR 6604; CBS Radio Resp. at 5-6 (Aug. 20, 2012).

1 and related solely to issues concerning the state office.⁹ Although Rowland's Response
2 does not address Apple Health's payments to him, he asserts generally that the
3 Complaints are politically motivated and meant to generate negative publicity.¹⁰

4 Based on the record presently before the Commission, we recommend that the
5 Commission find reason to believe that Apple Health made a corporate contribution to
6 the Committee as a result of its payments to Rowland and that the Committee knowingly
7 received a contribution from Apple Health, find no reason to believe as to Rowland in
8 relation to that allegation, and find no reason to believe that Rowland and CBS Radio
9 made an in-kind corporate contribution through the radio talk show program.¹¹

10 II. ANALYSIS

11 A. Alleged Corporate Contribution from Apple Health

12 1. Factual Background

13
14 The Complaints here allege that Rowland was a paid consultant for Apple Health
15 while he provided assistance to the Wilson-Foley campaign, purportedly in a volunteer
16 capacity. Among other services Rowland allegedly provided the Committee, the
17 Complaints assert that Rowland endorsed both Wilson-Foley and the Committee in
18 telephone calls to delegates, organized at least one campaign event on behalf of Wilson-

⁹ Rowland Resp. at 1-2, MUR 6604 (Oct. 1, 2012).

¹⁰ *Id.* at 2.

¹¹ The Complaint in another matter, MUR 6522 (Lisa Wilson-Foley for Congress, *et al.*), alleged that the Committee and Wilson-Foley received impermissible in-kind contributions from Apple Health, as well as from other family businesses, All Star Therapy, LLC, and Blue Fox Enterprises, Inc., in the form of television advertisements and postings on Facebook and a website. In a First General Counsel's Report in that matter dated February 5, 2013, we recommended that the Commission find no reason to believe respondents violated the Act and close the file. The Commission approved our recommendations on June 25, 2013. Amended Commission Cert., MUR 6522 (July 17, 2013).

1 Foley, and “attacked” an opposing candidate on a politically-themed radio talk show
2 program that Rowland hosted.¹²

3 Rowland served as governor for the State of Connecticut from 1995 to 2004. On
4 December 23, 2004, Rowland pleaded guilty in federal district court to a charge of
5 conspiracy to commit honest services fraud and to defraud the United States in relation to
6 his receipt of gratuities while serving as Connecticut’s governor.¹³ He currently serves as
7 the host of a politically-themed radio show called the John Rowland Show.¹⁴

8 The Complaints posit that Apple Health’s payments to Rowland may have
9 constituted unreported corporate contributions from Apple Health to the Committee,
10 relying on a series of press reports that suggest Rowland’s consulting arrangement with
11 Apple Health was a cover, and that Rowland was in fact being paid as a result of his work
12 for the Committee.¹⁵ In support of that inference, those press reports recite allegations

¹² Compl. ¶¶ 4-5, MUR 6604; Compl. ¶¶ 1-3, MUR 6566.

¹³ See Information, *United States v. John G. Rowland*, 3:04-CR-367 (Dec. 23, 2004); Plea Agreement, *United States v. Rowland*, 3:04-CR-367 (Dec. 23, 2004). Rowland later was sentenced to twelve months and a day in prison, a \$72,000 fine disgorging his unlawful gratuities, an additional \$10,000 criminal fine, and four months of home confinement. Judgment, *United States v. Rowland*, 3:04-CR-367 (Mar. 18, 2005).

¹⁴ Rowland’s show has been on the air since September 2010. It airs on weekdays from 3 p.m. to 6 p.m. and “focuses on local issues that affect our towns and state . . .” See CBS Radio Resp. at 2; CBS CONNECTICUT: JOHN ROWLAND, <http://connecticut.cbslocal.com/audio-on-demand/wtics-state-and-church/>. Topics cover a range of subjects, from discussions of recent legislative activity to healthcare, state spending, and taxes. See CBS Radio Resp. at 2.

¹⁵ Compl. ¶ 1, Ex. 1, MUR 6604; Compl. at 1-2, MUR 6566. The Complaint in MUR 6566 asserts that it is premised on information in media sources and other information generally available to the public, including statements made by the Wilson-Foley campaign itself, attaching three press articles in support. Compl. at 1, Attach., MUR 6566 (including Jordan Fenster, *Lisa Wilson-Foley Criticized for John Rowland Backing by Mike Clark, Who Put Him Behind Bars*, REGISTER CITIZEN, Apr. 5, 2012, http://www.ct5thdistrict.com/2012/04/05/lisa-wilson-foley-criticized-john-rowland-backing-5th-foc-put-bars/?doing_wp_cron=1358521999.6464390754699707031250; Jordan Fenster, *John Rowland Was Paid by Lisa Wilson-Foley's Husband in 'Private Business Relationship'*, REGISTER CITIZEN, Apr. 23, 2012, [hereinafter Fenster, *Rowland Was Paid*], <http://www.ct5thdistrict.com/2012/04/23/rowland-paid-private-business-relationship-lisa-wilson-foleys-husband/>; Jordan Fenster, *John Rowland Offered Mark Greenberg Campaign Help in Exchange for Animal Shelter Pay*, REGISTER CITIZEN, Apr. 24, 2012, [hereinafter

1 that Rowland previously offered campaign consulting services to Mark Greenberg, a
2 candidate in 2010 and 2012 in the Fifth Congressional District of Connecticut and
3 Wilson-Foley's opponent in 2012, under a similar arrangement — where Greenberg's
4 nonprofit animal shelter would pay Rowland for campaign-related services rather than
5 Greenberg's campaign directly.¹⁶ According to those reports,

6 [Greenberg] confirm[ed] that Rowland had proposed a campaign
7 consulting arrangement with him in 2010, whose nature would have
8 been hidden by funneling payments through a nonprofit foundation
9 Greenberg runs. Greenberg said he declined.¹⁷
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11 The same sources state that Greenberg also asserted that he possessed records
12 documenting Rowland's proposal to provide campaign consulting services paid through
13 the candidate's separate business entity:

14 In a brief interview Monday, Greenberg said he has documentation
15 of the offer, including an exchange of emails, but he was uncertain
16 about releasing them. 'It's not my issue,' he said.¹⁸

Fenster, *Rowland Offered Greenberg Campaign Help*], <http://ct5thdistrict.registercitizen.com/2012/04/24/mark-greenberg-declined-john-rowland/>).

As noted, the Complaint in MUR 6604 relies on and attaches the Complaint filed in MUR 6566, including the news articles provided with that submission, along with three additional press accounts reporting on the same allegations. Compl., Exs. 2-4, MUR 6604 (including Colin McEnroe, Opinion, *Rowland Dances Again on Edge of Darkness*, HARTFORD COURANT, Apr. 27, 2012, <http://articles.courant.com/2012-04-27/news/hc-op-mcenroe-rowland-contract-wilson-foley-suspicious-20120427>); John Rowland Rowland Today Wilson-Foley Campaign (Attached as Exhibit 2); Matt DeRienzo, *John Rowland Ends Relationship with Wilson-Foley Campaign, Denies Greenberg Accusation*, REGISTER CITIZEN, May 2, 2012, <http://www.ct5thdistrict.com/2012/05/02/breaking-john-rowland-ends-relationship-wilson-foley-campaign-denies-greenberg-accusation/> (Attached as Exhibit 3); Jordan Fenster, *WVIC Radio Sticks By John Rowland, Says He'll Stay on the Air*, REGISTER CITIZEN, Apr. 26, 2012, <http://www.ct5thdistrict.com/2012/04/26/wvic-radio-sticks-john-rowland-stay-air/> (Attached as Exhibit 4)).

¹⁶ Compl. at 2, MUR 6566; see also Fenster, *Rowland Offered Greenberg Campaign Help*, *supra* note 15. Greenberg reportedly rejected Rowland's proposal. *Id.*

¹⁷ DeRienzo, *supra* note 15 (reporting further that Greenberg campaign communications director later again confirmed that, "[w]ith regard to John Rowland and the Simon Foundation, Mark stands by his previous statements") (quoting Mark Pazniokas, *With GOP 5th CD Field, the Attacks Come Post-Debate*, CT MIRROR, Apr. 30, 2012, <http://www.ctmirror.org/story/2012/04/30/gop-5th-cd-field=attacks-come-post-debate>).

¹⁸ *Id.* (quoting Pazniokas, *supra* note 17).

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1 The Committee has not disclosed any disbursements to Rowland or debts owed
2 him, or any disbursements, debts, or contributions to or from Apple Health, on any
3 reports submitted to the Commission.

4 Concerning Apple Health's payments to Rowland, Apple Health and the
5 Committee do not deny that Rowland engaged in a paid consulting relationship with
6 Apple Health while providing political campaign services to the Committee.¹⁹ Instead,
7 they deny that the Complaints allege a violation of the Act, asserting that the only factual
8 allegations in the Complaints concern permissible volunteer activity of an individual who
9 is employed by another entity.²⁰ The Committee Response contends that there is no
10 express factual allegation in the Complaint that Apple Health paid Rowland to work for
11 the Wilson-Foley campaign or that Rowland "was volunteering his time when he was
12 supposed to be working for Apple [Health]."²¹ The Committee and Apple Health also
13 assert that Rowland's alleged offer to Greenberg in the 2010 cycle is irrelevant to
14 Rowland's "lawful volunteering activity for the Wilson-Foley campaign in the 2012
15 election cycle."²² Respondents do not directly deny that Rowland was paid by Apple
16 Health to work for the Committee, although a Wilson-Foley spokesman reportedly stated
17 in the press that the payments to Rowland were coincidental and not related to Rowland's
18 unpaid work on the campaign.²³

¹⁹ See Committee Resp. at 1-4; MUR 6566; Apple Health Resp. at 1-6.

²⁰ Committee Resp. at 1-3, MUR 6566; Apple Health Resp. at 1-6.

²¹ Committee Resp. at 4, MUR 6566.

²² Apple Health Resp. at 5 n.1; Committee Resp. at 2, MUR 6566.

²³ See Fenster, *Rowland Was Paid*, *supra* note 15; see also *Wilson-Foley Claims Husband's Payment to Rowland Not Related to 5th District Campaign*, REGISTER CITIZEN, Apr. 25, 2012,

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1 Rowland did not address the allegations concerning his relationship with Apple
2 Health in his Response, but he reportedly has denied that he previously offered his
3 political assistance to Greenberg to be paid through a separate entity and that he was
4 "going to stop volunteering for the Lisa Wilson-Foley campaign."²⁴

5 The Committee publicly released a contract that it stated controlled Rowland's
6 consulting relationship with Apple Health.²⁵ Rowland did not contract directly with
7 Apple Health, but instead entered into an agreement executed by Christian Sheldon on
8 behalf of the Law Offices of Christian B. Sheldon, Esq. LLC, a firm that the Committee
9 asserts provides consulting services to Apple Health.²⁶ The contract provides that from
10 October 1, 2011 to March 31, 2012, Rowland would receive a monthly payment of
11 \$5,000 in return for his "consulting services" related to "marketing, strategic advice and

<http://ct5thdistrict.registercitizen.com/2012/04/25/wilson-foley-claims-husbands-payment-related-5th-district-campaign/> [hereinafter REGISTER CITIZEN, *Wilson-Foley Claims Husband's Payment to Rowland*].

²⁴ See DeRienzo, *supra* note 15. This article was published several weeks after the March 31, 2012, expiration of the six month period during which Rowland was under contract with Apple Health.

²⁵ See Attach. 1. The Committee released the contract as an attachment to a letter from Wilson-Foley's campaign manager, Christopher Syrek, to Michael Clark and Mike Clark for Congress, the complainants in MUR 6566, dated April 25, 2012. *Id.* at 1-2. A press article contained a link to the Syrek letter and the contract. See REGISTER CITIZEN, *Wilson-Foley Claims Husband's Payment to Rowland*, *supra* note 23; <http://library.constantcontact.com/download/get/file/1107990572647-11/Letter+Response+to+Mike+Clark.pdf>. The Syrek letter refers to services Rowland provided to "Apple Rehab," a name under which Apple Health does business. See <http://www.apple-rehab.com/about.html>.

²⁶ See Attach. 1 at 1.

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1 business consulting.”²⁷ Although the effective date of the contract is October 1, 2011, the
2 signatures of Rowland and Sheldon are dated November 11, 2011.²⁸

3 The Committee also released a “Statement by Brian Foley, President of Apple
4 Rehab,” dated April 24, 2012, describing the work Rowland performed as “work[ing]
5 with the company’s executive management team on several short term strategic
6 initiatives[,] . . . includ[ing] visiting various healthcare facilities where he met with
7 management and provided feedback on census and business development initiatives.”²⁹
8 According to Brian Foley’s statement, Rowland “met regularly with Apple’s Chief
9 Operating Officer and performed duties based on senior leadership’s direction” and
10 “attended Board of Directors meetings as requested by Apple’s senior management team
11 or company ownership.”³⁰

12 The Committee’s disclosure reports show that it paid its staff varying amounts
13 during the period identified in Rowland’s contract with the Sheldon firm, but that two
14 campaign managers were each paid \$2,307 biweekly (equivalent to \$4,998.5 on a
15 monthly basis), which is approximately the same amount as the \$5,000 that Rowland
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²⁷ Attach. 1 at 1, 4-5. The contract further provides that Rowland would meet with the Law Offices of Christian B. Sheldon, Esq. LLC or its designees at least twice a month, and provide “education, opinions, and information on any issue” as required. *Id.* at 4.

²⁸ *Id.* at 4, 8.

²⁹ *Id.* at 3. This statement is attached to the Syrek letter.

³⁰ *Id.*

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1 received on a monthly basis from Apple Health.³¹ In addition, the Committee paid
2 another campaign manager \$2,884.62 biweekly.³²

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³¹ See, e.g., 2011 Year-End Report at 98, 101, 103 (disbursements to Christopher Covucci); 2012 April Quarterly Report at 94, 96, 98 (disbursements to Christopher Syrek). See *Wilson-Foley Campaign Announces Chris Covucci as Campaign Manager*, AMERIBORN NEWS, Oct. 7, 2011, <http://ameribornnews.com/2011/10/07/955/>; Attach. 1 (letter signed by Syrek in his capacity as "Campaign Manager").

³² 2011 Year-End Report at 96, 98 (disbursements to Tiffany Romero-Grossman); see AMERIBORN NEWS, *supra* note 31.

On July 23, 2013, the Commission failed by a 2-3 vote to agree to hold these matters in abeyance.³⁵

2. Legal Analysis

The Act prohibits corporations from making contributions in connection with a federal election.³⁸ Corporate officers and directors also may not “consent” to any contribution by the corporation that is prohibited by section 441b(a).³⁹ The Act further prohibits any candidate, political committee, or other person from knowingly accepting or receiving an impermissible corporate contribution.⁴⁰ The Act and Commission regulations require political committees to report all contributions received, whether monetary or in-kind, during a given reporting period.⁴¹

“Contribution” under the Act and Commission regulations includes the payment by any person of compensation for the personal services of another person rendered to a political committee without charge for any purpose.⁴² The value of services provided

³⁵ Commission Cert., MURs 6566, 6604 (July 26, 2013).

³⁸ 2 U.S.C. § 441b(a).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ 2 U.S.C. § 434(b); 11 C.F.R. § 104.3.

⁴² 2 U.S.C. § 431(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

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1 without compensation by any individual who volunteers on behalf of a candidate or
2 political committee, however, does not constitute a contribution so long as the individual
3 is not compensated by anyone for the services.⁴³ Individuals may nonetheless volunteer
4 on behalf of campaigns while employed by another entity,⁴⁴ and may make "occasional,
5 isolated, or incidental" use of corporate facilities to provide volunteer services to a
6 political campaign during paid working hours pursuant to certain limits and
7 qualifications.⁴⁵ Moreover, the term "contribution" does not include the use by
8 individuals of equipment and services for uncompensated internet activities, regardless of
9 who owns the equipment and services.⁴⁶

10 The Commission previously determined as a matter of policy that a reason-to-
11 believe finding is appropriate "in cases where the available evidence in the matter is at
12 least sufficient to warrant conducting an investigation, and where the seriousness of the

⁴³ See 2 U.S.C. § 431(8)(B)(i); 11 C.F.R. § 100.74.

⁴⁴ Commission regulations provide that no contribution results where (a) an employee paid on an hourly or salaried basis engages in political activity during what would otherwise be a regular work period provided that the taken or released time is made up or completed by the employee within a reasonable time; (b) an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit; and (c) the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time. 11 C.F.R. § 100.54.

⁴⁵ Specifically, Commission regulations provide a safe harbor for the use of corporate facilities by employees and stockholders for their individual volunteer activities in connection with a federal election. 11 C.F.R. § 114.9. Under the safe harbor, the use of corporate facilities for no more than one hour per week or four hours per month for individual volunteer activities in connection with a federal election will not result in a corporate contribution, so long as the individuals reimburse the corporation for any increase in its overhead or operating expenses. *Id.* § 114.9(a)(2). Employees and stockholders who make more than the "occasional, isolated, or incidental use of corporate facilities" for their individual volunteer activities in connection with a federal election, however, must reimburse the corporation for the fair rental value of its facilities to avoid a corporate contribution. *Id.* § 114.9(a)(3).

⁴⁶ *Id.* § 100.94(a). Internet activities include sending or forwarding emails and any other forms of communication distributed over the internet. *Id.* § 100.94(b).

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1 alleged violation warrants either further investigation or immediate conciliation.”⁴⁷ A
2 reason-to-believe finding indicates “only that the Commission found sufficient legal
3 justification to open an investigation to determine whether a violation of the Act has
4 occurred.”⁴⁸

5 Notwithstanding that Rowland was entitled to volunteer his services to the
6 Committee, the facts and circumstances in the current record collectively provide reason
7 to believe a violation may have occurred that warrants investigation into whether the
8 compensation Rowland received from Apple Health — a company owned by Wilson-
9 Foley’s spouse — may have been payment for campaign services Rowland provided the
10 Committee.

11 First, Apple Health’s payments to Rowland and Rowland’s provision of services
12 to the Committee appear to have begun and ended around the same time.⁴⁹ In April 2012,
13 it was reported that Rowland himself disclosed to CBS Radio the fact that he was
14 working with Wilson-Foley’s campaign “months ago,”⁵⁰ and that his relationship with the
15 campaign reportedly ceased in early May 2012.⁵¹ The contract provides that Rowland

⁴⁷ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (stating that a reason-to-believe finding is appropriate where complaint “credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.”).

⁴⁸ *Id.*

⁴⁹ See DeRienzo, *supra* note 15; Jordan Fenster, *Rowland-Wilson-Foley Scandal Hangs Over 5th District Primary*, REGISTER CITIZEN, Aug. 6, 2012, <http://ct5thdistrict.registercitizen.com/2012/08/06/rowland-wilson-foley-scandal-hangs-over-5th-district-primary/>; Jordan Fenster, *WTIC: Rowland Avoiding 5th District Race on Radio Because He’s Working for Wilson-Foley*, REGISTER CITIZEN, Apr. 19, 2012, [hereinafter Fenster, *Rowland Avoiding 5th District Race*], <http://ct5thdistrict.registercitizen.com/2012/04/19/wtic-rowland-avoiding-5th-district-race-radio-working-wilson-foley/>.

⁵⁰ See Fenster, *Rowland Avoiding 5th District Race*, *supra* note 49.

⁵¹ See DeRienzo, *supra* note 15.

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1 work with Apple Health from October 1, 2011 through March 31, 2012. Further, Apple
2 Health paid Rowland approximately the same amount the Committee paid three
3 individuals who held senior positions on its staff, Christopher Covucci, Christopher
4 Syrek, and Tiffany Romero-Grossman. The only explanation offered for the substantial
5 overlap in the timing between Rowland's service to the Committee and payment by
6 Apple Health is the reported public statement of a campaign spokesperson that it was
7 "coincidental."⁵² The Responses offer no such explanation, other than to assert that the
8 allegations in the Complaints concern permissible volunteer activity of an individual who
9 is employed by another entity.

10 Second, Rowland's experience in Connecticut politics makes his value to the
11 Committee readily apparent. He was the governor of the state in which the federal
12 election was located for nine years and six months,⁵³ he has been heralded as possessing
13 considerable political skills,⁵⁴ and he continues to serve as the host of a regularly
14 broadcast politically-themed radio talk show.⁵⁵ Rowland's background, however,
15 suggests little obvious reason for Apple Health to seek entry into a fairly costly short-
16 term consulting relationship with him during the precise period that the spouse of its
17 owner was running for office — beyond Rowland's political savvy and the company's
18 connection to the candidate.

⁵² See REGISTER CITIZEN, *Wilson-Foley Claims Husband's Payment to Rowland*, *supra* note 23.

⁵³ See <http://www.cslib.org/gov/>. Rowland resigned on July 1, 2004. See Robert D. McFadden, *An Ex-Governor Says He's Guilty*, NEW YORK TIMES, Dec. 24, 2004, http://www.nytimes.com/2004/12/24/nyregion/24rowland.html?ref=johngrowland&_r=0.

⁵⁴ See Michael Powell, *Connecticut Governor Resigns*, WASHINGTON POST, June 22, 2004, <http://www.washingtonpost.com/wp-dyn/articles/A57561-2004Jun21.html>.

⁵⁵ See <http://connecticut.cbslocal.com/audio-on-demand/wtcs-state-and-church/>.

1 Third, in addition to the value to a committee of outsourcing its payroll costs,
2 Rowland's guilty plea to federal charges that he engaged in political corruption while
3 serving as the governor of the state in which the potential candidate-employer is seeking
4 federal office also provides a motive to minimize public knowledge of any financial
5 relationship between the Committee and Rowland.

6 Fourth, the allegation that Rowland previously offered a similar arrangement to
7 another federal candidate in Connecticut — proposing that the candidate pay Rowland for
8 political consulting services through an outside entity controlled by the candidate —
9 further suggests that the present allegations warrant Commission inquiry.
10 Notwithstanding the assertion of Apple Health and the Committee that the alleged
11 dealings of Rowland with Greenberg are “irrelevant,” substantially similar prior conduct
12 may be highly relevant proof of the absence of mistake or accident or — as the issue is
13 framed here — the absence of coincidence.⁵⁶ Rowland reportedly has acknowledged in
14 public statements to the press that he engaged in discussions with Greenberg previously
15 regarding campaign advice and raising funds for Greenberg's non-profit animal shelter,
16 but denied that he offered to work for the campaign in exchange for being paid through
17 the animal shelter.⁵⁷ No Respondent has denied that the prior offer occurred in any
18 submission to the Commission.

⁵⁶ In a trial on the merits, prior similar conduct would be admissible to show pattern, absence of mistake or accident (that is, absence of coincidence), intent, or other facts other than disposition. *See* Fed. R. Evid. 404(b). Courts routinely recognize that substantially similar prior acts can be highly probative. *See, e.g., United States v. Spinosa*, 982 F.2d 620, 628-29 (1st Cir. 1992); *United States v. Yielding*, 657 F.3d 688, 701-02 (8th Cir. 2011). As to the veracity of Greenberg's claim, the repeated, direct, and fully attributed public confirmatory statements of Greenberg and his staff in press reports submitted with the Complaints — including Greenberg's assertion that he possesses documentary support for the claim — provide a reasoned basis to credit the claim in assessing the state of the pre-reason-to-believe record. Should further investigation tend to discredit it, however, we will make appropriate recommendations.

⁵⁷ *See* DeRienzo, *supra* note 15.

1 Fifth, the contract formalizing the relationship between Apple Health and
2 Rowland itself is peculiar in several respects. The written agreement was entered into 40
3 days after its effective date, and then not directly with Apple Health but in the name of a
4 law firm that provided legal services to Apple Health. These characteristics of the
5 contractual relationship may well be explained through further inquiry. At the least,
6 however, the contract is not inconsistent with the inference that Rowland's compensation
7 from Apple Health may have related also to his campaign work, and indeed the contract
8 does not rebut the possibility.

9 Sixth, neither Rowland nor Apple Health have identified to the Commission
10 precisely what services Rowland rendered to Apple Health in return for the \$30,000 he
11 was paid during the six months he served as its consultant. The contract memorializing
12 Rowland's financial relationship with Apple Health is general; it provides merely that
13 Rowland would provide "consulting services" related to "marketing, strategic advice and
14 business consulting."⁵⁸ Brian Foley's public statement describes with somewhat more
15 specificity the services Foley claims Rowland provided Apple Health — he "work[ed]
16 with the company's executive management team on several short term strategic
17 initiatives[,] . . . includ[ing] visiting various healthcare facilities where he met with
18 management and provided feedback on census and business development initiatives[,]
19 . . . met regularly with Apple's Chief Operating Officer and performed duties based on
20 senior leadership's direction[,] . . . [and] attended Board of Directors meetings as
21 requested . . ."⁵⁹ But those claims are made only in a public press release issued after

⁵⁸ Attach. 1 at 4.

⁵⁹ *Id.* at 3.

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1 the conduct at issue became the subject of news interest and were not repeated or adopted
2 in any of the Responses filed with the Commission. Moreover, although Foley's public
3 statement offers some factual information, even those factual assertions lack the level of
4 detail or specificity that would resolve the questions that are fairly raised by the other
5 circumstances presented here. And as noted, there is no statement in Rowland's
6 Response or in the whole record that might clarify those facts or refute the allegations.

7 In sum, although in isolation some of the circumstances identified here may be
8 subject to more than one reasonable interpretation, together those circumstances all tend
9 to support a reasonable inference that the financial relationship between Apple Health
10 and Rowland may have been connected to Rowland's political work for the Committee.
11 Further, the publicly available contract — the only direct evidence of that relationship
12 currently before the Commission — itself raises questions, and certainly does not dispose
13 of the allegation.

14 In the face of the collective weight of information suggesting Rowland's financial
15 relationship with Apple Health may have been related to his service to the Committee,
16 neither Apple Health nor the Committee has expressly denied that Rowland provided
17 assistance to the Committee as a result of his compensation from Apple Health. The
18 Commission has no sworn statement from any witness with personal knowledge. Nor
19 does any Response contain a representation about the consulting arrangement that is

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1 attributed to Rowland. Rowland himself declined to respond to the allegations related to
2 his business relationship with Apple Health.⁶¹

3 Moreover, Respondents' statement of law that individuals may volunteer for
4 campaigns while they are employed elsewhere is not to the contrary. Rowland could
5 have volunteered for the Wilson-Foley campaign at certain times, performed paid work
6 for Apple Health at other times, and conducted work paid by Apple Health for the
7 campaign at still others. Only the last of these scenarios would constitute a corporate
8 contribution, but there is reason to infer that that may have occurred here.⁶²

9 As noted, the Respondents do not directly address the implication that Rowland's
10 compensation related to his political assistance to the Committee. They do, however,
11 object to the adequacy of the Complaints, asserting that they fail to plead facts within the
12 personal knowledge of the complainants and rely on hearsay and media reports.⁶³ As a
13 procedural matter, reference to allegations made by others or to facts outside the personal

⁶¹ As noted above, although Rowland submitted a response to the radio show allegation raised in MUR 6604, he is silent as to the allegations involving his payments from Apple Health. Accordingly, the circumstances suggesting a possible violation of the Act stand unrefuted. This case is similar in that respect to MUR 5127 (Democratic Party of Illinois), where the complaint alleged that because the State of Illinois paid the salary of a state employee who was also the Executive Director of the Democratic Party of Illinois ("DPI") and the DPI did not disclose its salary payments to the Executive Director, the state made a contribution to the DPI. The response DPI filed never affirmatively claimed that the Executive Director volunteered his personal services during his off-duty hours or that he used *bona fide* personal leave to work for the DPI. The Commission recognized that the response was "conspicuously devoid of statements from [the Executive Director] himself" and concluded that the Executive Director's "silence evidences a critical factual void that requires further investigation." See Factual & Legal Analysis at 6-7, MUR 5127 (DPI and Executive Director). The Commission found reason to believe that the DPI violated 2 U.S.C. §§ 441a(f) and 434(b) and the Executive Director violated 2 U.S.C. § 441a(f), and took no action at the time regarding the recommendation of this office to find reason to believe that the State of Illinois violated 2 U.S.C. § 441a(1)(C). See Cert., MUR 5127 (July 17, 2002). After an investigation showed that the Executive Director in fact performed his work for the DPI in a manner that did not constitute a contribution to the DPI, the Commission approved the recommendation of this office to take no further action and close the file. See Gen. Counsel's Rpt. #2 at 7-8, MUR 5127; Cert. (Jan. 28, 2004).

⁶² See 2 U.S.C. § 441b(a).

⁶³ See Committee Resp. at 2, MUR 6566; Committee Resp. at 3, MUR 6604; Apple Health Resp. at 1.

1 knowledge of the complainant does not invalidate a complaint. The Act and Commission
2 regulations mandate only that a complaint be signed and sworn;⁶⁴ there is no requirement
3 that complaints must be based solely on personal knowledge. Indeed, the Commission's
4 regulations expressly provide the contrary: a complainant may allege a violation of the
5 Act "based upon information and belief."⁶⁵ That a complainant's information and belief
6 may be derived in part from statements of others or in press reports "does not in and of
7 itself render the complaint insufficient on its face."⁶⁶

8 Thus, it may reasonably be inferred from the information detailed above that a
9 violation of the Act and Commission regulations may have occurred warranting
10 Commission review. If that investigation develops proof that Apple Health in fact paid
11 Rowland in relation to his activities for the Committee, then Apple Health would have
12 made a corporate in-kind contribution to the Committee, which the Committee did not
13 disclose receiving. We therefore recommend that the Commission find reason to believe
14 that Apple Health violated 2 U.S.C. § 441b(a) and that the Committee violated 2 U.S.C.
15 §§ 441b(a) and 434(b).⁶⁷

⁶⁴ 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.4(b).

⁶⁵ 11 C.F.R. § 111.4(c), (d); *see also* Guidebook for Complainants and Respondents on the FEC Enforcement Process at 6 (May 2012) ("Statements not based on personal knowledge should identify the source of the information."); Mem. to the Comm'n from William C. Oldaker, General Counsel, FEC, *Complaints Based on News Articles* (Comm'n Mem. No. 663) (Nov. 5, 1979) (adopted by the Commission Nov. 15, 1979) ("[T]he legislative concern that complaints not be frivolous or malicious would seem to not preclude those complaints based on news articles which were well-documented and substantial, if the other complaint filing criteria or signing and notarization were met.").

⁶⁶ Factual and Legal Analysis at 8 n.5, MUR 6276 (Byker, *et al.*) (May 6, 2011) (citing MUR 6023 (McCain/Loeffler Group)). In *Byker*, the Commission concluded that the "specific" statements contained in 17 sworn affidavits rebutted allegations made by a single anonymous source. *Id.* at 3, 9. By contrast, here, there are multiple sources whose allegations have not been specifically refuted by the Respondents.

⁶⁷ To the extent the payments to Rowland were made by the Law Offices of Christian B. Sheldon, Esq., LLC, ("Sheldon") and not directly by Apple Health, Sheldon is an agent of Apple Health and so

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1 Rowland is not an officer or director of Apple Health and consequently would not
2 have authorized or consented to the corporate contribution.⁶⁸ Nor would he have
3 accepted it for the Committee absent an agency relationship, which does not appear to be
4 present here where Rowland's own work for the Committee is the alleged contribution to
5 the Committee. Accordingly, we recommend that the Commission find no reason to
6 believe that Rowland violated 2 U.S.C. § 441b(a).

7 **B. Alleged Corporate Contribution from CBS Radio**

8 1. Factual Background

9 In addition to questioning the financial relationship between Rowland and the
10 Committee, the MUR 6604 Complaint alleges that Rowland, as radio talk show host, and
11 CBS Radio made an impermissible in-kind corporate contribution to the Committee when
12 Rowland used his radio talk show to attack one of Wilson-Foley's opponents, Andrew
13 Roraback, that the Committee accepted an impermissible corporate contribution, and that
14 the Committee failed to disclose that contribution.⁶⁹ The Complaint alleges that radio air
15 time is a commodity, and because Rowland used his show to benefit the Committee, the
16 Committee should have reported the air time as a contribution.⁷⁰ The Complaint also
17 alleges that the Committee and CBS Radio coordinated the attack, with Rowland acting
18 on behalf of CBS Radio as its agent.⁷¹

Apple Health is the appropriate party in the reason to believe recommendation based on the information currently available to us.

⁶⁸ See 2 U.S.C. § 441b(a).

⁶⁹ Wilson-Foley faced Roraback in the May 14, 2012, convention election and the August 14, 2012, primary election.

⁷⁰ Compl. at 2-3, MUR 6604.

⁷¹ *Id.* at 2.

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1 Respondents CBS Radio and the Committee assert that the Act's press exemption
2 covers Rowland's radio show and therefore it did not constitute a contribution.⁷² CBS
3 Radio states that it owns and operates WTIC, a news/talk AM radio station serving the
4 greater Hartford, Connecticut area.⁷³ WTIC broadcasts nationally syndicated
5 programming as well as local programming, including a program hosted by Rowland that
6 has been aired since September 2010.⁷⁴ The show is broadcast weekdays from 3 p.m. to
7 6 p.m. and "focuses on local issues that affect our towns and state"⁷⁵ According to
8 CBS Radio, the show's topics cover a range of subjects, from discussions of recent
9 legislative activity to healthcare, state spending, and taxes.⁷⁶ CBS Radio also states that
10 it is a wholly-owned subsidiary of CBS Radio Inc., a media and entertainment
11 corporation specializing in radio programming.⁷⁷ CBS Radio Inc. is an indirect
12 subsidiary of CBS Corporation, a publicly traded mass media corporation that is neither
13 owned nor controlled by a candidate or political party.⁷⁸ Finally, CBS Radio asserts that
14 it was acting as a press entity at all times when it produced and broadcast Rowland's
15 show on radio station WTIC.⁷⁹

⁷² Committee Resp. at 5-9, MUR 6604; CBS Radio Resp. at 3-6 (Aug. 20, 2012).

⁷³ CBS Radio Resp. at 1.

⁷⁴ *Id.* at 1-2.

⁷⁵ *Id.* at 2 (citing CBS Connecticut: John Rowland, <http://connecticut.cbslocal.com/audio-on-demand/wtics-state-and-church/> (last visited Nov. 26, 2013)).

⁷⁶ CBS Radio Resp. at 2.

⁷⁷ *Id.* at 1.

⁷⁸ *Id.*

⁷⁹ *Id.* at 5.

1 in conducting the activity at issue (*i.e.*, whether it is acting in its "legitimate press
2 function").⁸⁴

3 Here, both steps of the press exemption analysis are met. First, CBS Radio is in
4 the business of producing and broadcasting national and local radio programs, including
5 Rowland's radio show that airs weekdays and covers a variety of news stories,
6 commentary and editorial content.⁸⁵ CBS Radio, therefore, is a press entity. Second,
7 CBS Radio is not owned or controlled by a political party, political committee, or
8 candidate.⁸⁶ It also was acting within its legitimate press function: Rowland's weekday
9 radio show was broadcast to the general public throughout southern New England, not
10 just within the relevant district,⁸⁷ and the format of the show appears to be comparable in
11 form to those ordinarily broadcast by CBS Radio.⁸⁸ Further, as the Commission has
12 repeatedly stated, lack of objectivity in the show's news stories, commentaries, or

⁸⁴ *Reader's Digest Ass'n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981). In determining whether a press entity is acting in its legitimate function, the Commission considers (1) whether the press entity's materials are available to the general public, and (2) whether the materials are comparable in form to those ordinarily issued by the press entity. AO 2005-16 (citing *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 251 (1986)).

⁸⁵ CBS Radio Resp. at 1-2 (citing CBS Connecticut: John Rowland, <http://connecticut.cbslocal.com/audio-on-demand/wtics-state-and-church/> (last visited Nov. 26, 2013)).

⁸⁶ The allegation that Rowland was paid by Apple Health to work for the Committee could suggest that Wilson-Foley or the Committee controlled the content and messages aired on Rowland's radio show. The Commission, however, has rejected a similar allegation in the context of talk show hosts who were considering becoming candidates. In those cases, the Commission concluded that a host/candidate did not "own or control" the press entity even though the host/candidate had a role in determining program content. See MUR 6242 (J.D. Hayworth 2010); MUR 5555 (Ross). Similarly, we conclude that the application of the press exemption in MUR 6604 is not disturbed by any payments Rowland received for his campaign work.

⁸⁷ CBS Radio Resp. at 5.

⁸⁸ *Id.* at 1-2.

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1 editorials is irrelevant.⁸⁹ Thus, Rowland's radio show is covered by the press exemption
2 and any costs associated with the production and distribution of the show are not treated
3 as contributions or expenditures under the Act and Commission regulations. Given this
4 conclusion, the Commission need not consider whether the alleged contribution was
5 coordinated.⁹⁰ We therefore recommend that the Commission find no reason to believe
6 that CBS Radio or Rowland violated 2 U.S.C. § 441b(a) by making a contribution in
7 connection with Rowland's radio show, or that the Committee violated 2 U.S.C.
8 §§ 441b(a) or 434(b) by accepting such a contribution.

9 III. INVESTIGATION

10 We propose to investigate whether Rowland received compensation from Apple
11 Health that was related to the political campaign work Rowland provided the Committee.
12 We will seek information and documents from Apple Health, the Committee, and
13 Rowland, among other possible witnesses, relevant to that inquiry, including
14 communications prior to the October 1, 2011, contract period and November 11, 2011,
15 signature date and the actual work Rowland performed for Apple Health and for the
16 Committee.

17
18
19 Although we will attempt to obtain any necessary information through

⁸⁹ See AO 2007-20; AO 2005-19; AO 2005-16; Statement of Reasons, Comm'rs. Mason, McDonald, Sandstrom, Thomas, and Wold at 3, MURs 4929, 5006, 5090, 5117 (ABC, CBS, NBC, New York Times, Los Angeles Times, and Washington Post) ("Unbalanced news reporting and commentary are included in the activities protected by the media exemption").

⁹⁰ See 11 C.F.R. § 109.21(b)(1) (excludes payments for exempted activities from in-kind contributions); MUR 6242 (J.D. Hayworth 2010) (because the press exemption applies to the alleged contributions, it is unnecessary to consider whether some of the activities might constitute coordinated communications).

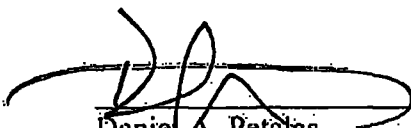
voluntary means, we recommend that the Commission approve compulsory process as necessary.

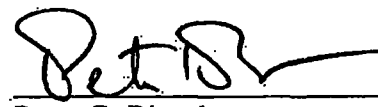
IV. RECOMMENDATIONS

1. Find reason to believe that Apple Health Care, Inc., violated 2 U.S.C § 441b(a);
2. Find reason to believe that Lisa Wilson-Foley for Congress and William M. Kolo in his official capacity as treasurer violated 2 U.S.C. §§ 441b(a) and 434(b) with respect to the allegation that they received a contribution from Apple Health Care, Inc.;
3. Find no reason to believe that John Rowland violated 2 U.S.C. § 441b(a) and close the MUR 6566 and MUR 6604 files as to him;
4. Find no reason to believe that CBS Radio Stations Inc. (WTIC) violated 2 U.S.C. § 441b(a) and close the MUR 6604 file as to it;
5. Find no reason to believe that Lisa Wilson-Foley for Congress and William M. Kolo in his official capacity as treasurer violated 2 U.S.C. §§ 441b(a) or 434(b) with respect to the allegation that they received a contribution from CBS Radio Stations Inc. (WTIC);
6. Authorize compulsory process;
7. Approve the attached Factual and Legal Analyses; and
8. Approve the appropriate letters.

Date

12/12/13


Daniel A. Petalas
Associate General Counsel
for Enforcement


Peter G. Blumberg
Assistant General Counsel


Mark Allen
Attorney

1 Attachments

- 2
3 1. Lisa Wilson-Foley for Congress letter and Rowland contract
4
5
6
7

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Lisa Wilson-Foley

for Congress

April 25, 2012

Michael Clark
Mike Clark for Congress
1051 Farmington Avenue
Farmington, CT

Hand Delivered

Dear Mike:

Enclosed you will find the information that you requested in your release concerning any and all business relationships between John G. Rowland, family members and the Lisa Wilson Foley 2012 campaign, companies associated and or owned by Lisa Wilson Foley and or Brian Foley.

In your release, you stated:

"Lisa Wilson Foley must publicly disclose any and all agreements between Brian Foley, his associated businesses, and John Rowland."

"She must disclose all agreements between herself, her campaign, Apple Rehab and the Rowland family."

"These disclosures must include all dates and amounts of payments as well as explanations for any non-disclosures to this point."

"Further, I have instructed my staff to file a formal complaint with the Federal Election Commission seeking its investigation of alleged activity."

Here is a specific response to your requests;

John G. Rowland and Brian Foley

Enclosed is a contract between Christian B. Shelton, Attorney at Law, and John G. Rowland. Shelton provides consulting services to Apple Rehab, which is owned by Brian Foley. The contract explains the financial terms. The contract was stipulated for six months and began late last year on October 1, 2011 and concluded in March of 2012.

Enclosed you will also find enclosed a statement by Apple Rehab concerning the scope of work between John G. Rowland and the company.

PO Box 1220 ★ Avon, CT 06001 ★ www.wilsonfoley2012.com

PAID FOR BY LISA WILSON-FOLEY FOR CONGRESS

Attachment 1
Page 1 of 8

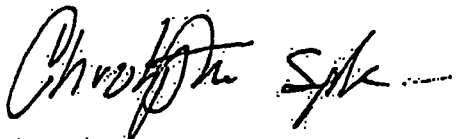
John G. Rowland and Lisa Wilson for Congress, 2012

There are no contracts or payments, past or present, between John G. Rowland, his family member and the Lisa Wilson Foley for Congress 2012 campaign.

John G. Rowland and companies owned by Lisa Wilson Foley

There are no contracts or payments between John G. Rowland, his family members and the companies associated with Lisa Wilson Foley.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Chris Syrek", with a horizontal line extending from the end.

Christopher Syrek

Campaign Manager

Lisa Wilson Foley for Congress

For Immediate Release

Date: April 24, 2012

Statement by Brian Foley, President of Apple Rehab

Former Governor John Rowland, who's relationship with Apple's ownership spans two decades, was employed as a consultant to Apple Rehab to work with the company's executive management team on several short term strategic initiatives. Mr. Rowland's contract commenced on October 1, 2011, for a term of six months, which expired on March 31, 2012. Specifically, Mr. Rowland focused on areas where the former governor's unique skill sets and experiences provided insight and expertise not commonly available through the utilization of other professional consultants.

As a former executive leader, Mr. Rowland's experience providing fundamental solutions to complex issues positioned him to consult on a myriad of issues relevant to the management of a large and diverse health care organization.

During the contract period, Mr. Rowland consulted on labor relations issues specific to union and contract negotiations. His responsibilities included visiting various healthcare facilities where he met with management and provided feedback on census and business development initiatives. The former governor met regularly with Apple's Chief Operating Officer and performed duties based on senior leadership's direction. He attended Board of Directors meetings as requested by Apple's senior management team or company ownership. To date, Mr. Rowland's role as a consultant for Apple Rehab has been fulfilled and his duties concluded.

###



CHRISTIAN B. SHELTON
ATTORNEY AT LAW
7 SOUTH MAIN STREET, BRANFORD, CT 06405
P: 203.483.9333 F: 203.483.9888

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (the "Agreement") is made and entered into this 1st day of October 2011 (the "Effective Date") by and between the Law Offices of Christian B. Shelton, Esq. LLC, with its principal place of business at 7 South Main Street, Branford, CT 06405 (hereinafter referred to as the "Company") and John Rowland of 98 Leonard Road, Middlebury, Connecticut 06772 (hereinafter referred to as the "Consultant").

WHEREAS, the Company wishes to engage the Consultant to provide the services described herein and Consultant agrees to provide the services for the compensation and otherwise in accordance with the terms and conditions contained in this Agreement,

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, accepted and agreed to, the Company and the Consultant, intending to be legally bound, agree to the terms set forth below.

I. TERM.

Commencing on the Effective Date, and continuing for a period of six (6) months ("Term"), unless earlier terminated pursuant to Article 4 hereof, the Consultant agrees that he will serve as a consultant to the Company. This Agreement may be renewed or extended for any period as may be agreed by the parties.

II. DUTIES.

The Consultant shall provide the following services ("Services"):

- a) Perform such consulting services for the Company regarding marketing, strategic advice and business consulting for the Company's clients or managing Members employment interests;
- b) The Consultant shall meet with the Company or the Company's designees as needed but at least two times per month;
- c) Provide education, opinions and information on any issue the Company or its Managing Member requires.

The Consultant represents and warrants to the Company that there are no contractual or other restrictions or obligations which are inconsistent with the execution of this Agreement, or which will interfere with the performance of Services. Consultant represents and warrants that the execution and performance of this Agreement will not violate any policies or procedures of any other person or entity for which he/she performs Services concurrently with those performed herein.

In performing the Services, Consultant shall comply, to the best of their knowledge, with all business conduct, regulatory and health and safety guidelines established by the Company for any governmental authority with respect to the Company's business.

III. CONSULTING FEE.

(a) The Company shall pay Consultant a consulting fee of Five Thousand Dollars and Zero Cents (\$5,000.00) per month for Services provided to the Company ("Consulting Fee") on the first day of each month beginning on October 1, 2011. The Consultant shall submit a monthly invoice. The Consulting Fee shall be paid within fifteen (15) days of the Company's receipt the invoice.

(b) The Consultant agrees that all Services will be rendered by the Consultant as an independent contractor and that this Agreement does not create an employer-employee relationship between the Consultant and the Company. The Consultant shall have no right to receive any employee benefits including, but not limited to, health and accident insurance, life insurance, sick leave and/or vacation or workers compensation benefits. Consultant agrees to pay all taxes including, self-employment taxes due in respect of the Consulting Fee and to indemnify the Company in the event the Company is required to pay any such taxes on behalf of the Consultant.

IV. EXPENSES.

The Company shall not pay any of the Consultant's expenses incurred while the Agreement between Consultant and the Company exists including any and all travel expenses to and from all work sites, meal expenses; administrative expenses; lodging expenses if work demands overnight stays; and miscellaneous travel-related expenses (parking and tolls).

V. TERMINATION.

(a) If the Consultant voluntarily ceases performing Services, becomes physically or mentally unable to perform the Duties, or is terminated for cause, the Consulting Fee shall cease and terminate as of such date.

(b) Upon termination, neither party shall have any further obligations under this Agreement. Upon termination and, in any case, upon the Company's request, the Consultant shall return immediately to the Company all Confidential Information, as hereinafter defined, and copies thereof.

VI. PROPRIETARY RIGHTS.

(a) Concept and Ideas. Those concepts and ideas disclosed by the Company or its Managing Members to Consultant or which are first developed by Consultant during the course of the performance of Services hereunder and which relate to the Company's present, past or prospective business activities, services, and products, all of which shall remain the sole and exclusive property of the Company. The Consultant shall have no publication rights and all of the same shall belong exclusively to the Company.

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(b) Confidential Information. For the purposes of this Agreement, Confidential Information shall mean and collectively include: all information relating to the business, plans and/or technology of the Company or the Managing Member's interests including, but not limited to technical information including inventions, methods, plans, processes, specifications, characteristics, assays, raw data, scientific preclinical or clinical data, records, databases, formulations, clinical protocols, equipment design, know-how, experience, and trade secrets; developmental, marketing, sales, customer, supplier, consulting relationship information, operating, performance, and cost information; computer programming techniques whether in tangible or intangible form, and all record bearing media containing or disclosing the foregoing information and techniques including, written business plans, patents and patent applications, grant applications, notes, and memoranda, whether in writing or presented, stored or maintained in or by electronic, magnetic, or other means.

Notwithstanding the foregoing, the term "Confidential Information" shall not include any information which: (a) can be demonstrated to have been in the public domain or was publicly known or available prior to the date of the disclosure to Consultant; (b) can be demonstrated in writing to have been rightfully in the possession of Consultant prior to the disclosure of such information to Consultant by the Company; (c) becomes part of the public domain or publicly known or available by publication or otherwise, not due to any unauthorized act or omission on the part of Consultant; or (d) is supplied to Consultant by a third party without binder of secrecy, so long as that such third party has no obligation to the Company or any of its affiliated companies to maintain such information in confidence.

(c) Non-Disclosure to Third Parties. Except as required by Consultant's Services, Consultant shall not, at any time now or in the future, directly or indirectly, use, publish, disseminate or otherwise disclose any Confidential Information, Concepts, or Ideas to any third party without the prior written consent of the Company which consent may be denied in each instance and all of the same, together with publication rights, shall belong exclusively to the Company.

(d) Documents, etc. All documents, diskettes, tapes, procedural manuals, guides, specifications, plans, drawings, designs and similar materials, lists of present, past or prospective customers, customer proposals, invitations to submit proposals, price lists and data relating to the pricing of the Company's products and services, records, notebooks and all other materials containing Confidential Information or information about Concepts or Ideas (including all copies and reproductions thereof), that come into Consultant's possession or control by reason of Consultant's performance of the relationship, whether prepared by Consultant or others: (a) are the property of the Company, (b) will not be used by Consultant in any way other than in connection with the performance of Services, (c) will not be provided or shown to any third party by Consultant, (d) will not be removed from the Company's or Consultant's premises (except as Consultant's Services require), and (e) at the termination (for whatever reason), of Consultant's relationship with the Company, will be left with, or forthwith returned by Consultant to the Company.

VII. WAIVER.

Any waiver by the Company of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof. All waivers by the Company shall be in writing.

VIII. SEVERABILITY; REFORMATION.

In case any one or more of the provisions or parts of a provision contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement; and this Agreement shall, to the fullest extent lawful, be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provision or part reformed so that it would be valid, legal and enforceable to the maximum extent possible. Without limiting the foregoing, if any provision (or part of provision) contained in this Agreement shall for any reason be held to be excessively broad as to duration, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the fullest extent compatible with then existing applicable law.

IX. ASSIGNMENT.

The Company shall have the right to assign its rights and obligations under this Agreement to a party which assumes the Company's obligations hereunder. Consultant shall not have the right to assign his/her rights or obligations under this Agreement without the prior written consent of the Company. This Agreement shall be binding upon and inure to the benefit of the Consultant's heirs and legal representatives in the event of his/her death or disability.

X. AMENDMENTS.

This Agreement may be amended or modified, in whole or in part, only by an instrument in writing signed by all parties hereto. Any amendment, consent, decision, waiver or other action to be made, taken or given by the Company with respect to the Agreement shall be made, taken or given on behalf of the Company only by authority of the Company's Board of Directors.

XI. NOTICES.

Any notices or other communications required hereunder shall be in writing and shall be deemed given when delivered in person or when mailed, by certified or registered first class mail, postage prepaid, return receipt requested, addressed to the parties at their addresses specified in the preamble to this Agreement or to such other addresses of which a party shall have notified the others.

XII. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment or extension of the Agreement shall be binding unless in writing and signed by both parties.

XIII. DEFENSE AND INDEMNIFICATION.

The Company agrees, at its sole expense, to defend the Consultant against, and to indemnify and hold the Consultant harmless from any claims or suits by a third party against the Consultant or any liabilities or judgments based thereon, either arising from the Consultant's performance of services for the Company under this Agreement or arising from any Company services which result from the Consultant's performance of services under this Agreement.

The Company will not use the Consultant's name in any commercial advertisement or similar material used to promote or sell products, unless the Company obtains in advance the written consent of the Consultant.

XIV. GOVERNING LAW.

This Agreement shall be construed in accordance with and governed for all purposes by the laws of the State of Connecticut applicable to contracts executed and wholly performed within such jurisdiction.

EXECUTED, under seal, effective as of the Effective Date.

John G. Rowland

Law Offices of Christian B. Shelton,
Esq. LLC

By:

John Rowland

Christian B. Shelton
Managing Member

Date:

11 / 11 / 11

Date:

11 / 11 / 2011